

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

MARSHALL DIVISION

TODD O'KEITH SMITH, #2067599

§

VS.

§

CIVIL ACTION NO. 2:17cv735

ANGELA SMOAK, ET AL.

§

ORDER OF DISMISSAL

Plaintiff Todd O'Keith Smith, an inmate currently confined at the Dolph Briscoe Unit within the Texas Department of Criminal Justice, (TDCJ), proceeding *pro se* and *in forma pauperis* in the above styled and numbered civil rights lawsuit concerning events that occurred in Jefferson, Texas. The complaint was referred to the United States Magistrate Judge, the Honorable Judge Roy S. Payne, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On June 5, 2019, Judge Payne issued a Report, (Dkt. #24), recommending that Plaintiff's civil rights lawsuit be dismissed, with prejudice, for failing to state a claim upon which relief can be granted. Judge Payne further recommended that Plaintiff's *Heck* claims be dismissed until the *Heck* conditions are met. *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). A copy of this Report was sent to Plaintiff at his address, and Plaintiff has filed timely objections, (Dkt. #26).

The Court has conducted a careful *de novo* review of record and the Magistrate Judge's proposed findings and recommendations. See 28 U.S.C. §636(b)(1) (District Judge shall "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Upon such *de novo* review, the Court has


determined that the Report of the United States Magistrate Judge is correct and Plaintiff's objections are without merit. Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #24), is **ADOPTED** as the opinion of the Court. Plaintiff's objections, (Dkt. #26), are overruled. Further, it is

ORDERED that Plaintiff's civil rights lawsuit is **DISMISSED**, with prejudice, as frivolous and for failure to state a claim upon which relief can be granted. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So ORDERED and SIGNED this 25th day of June, 2019.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE